

CHRISTOPHER W. KEEGAN (SB# 232045)
christopher.keegan@kirkland.com
STEPHEN M. SILVA (SB# 335865)
stephen.silva@kirkland.com
KIRKLAND & ELLIS LLP
555 California Street
San Francisco, CA 94104
Telephone: 415.439.1400
Facsimile: 415.439.1500

AARON H. MARKS (*Pro Hac Vice*)
aaron.marks@kirkland.com
AMAL EL BAKHAR (*Pro Hac Vice*)
amal.elbakhar@kirkland.com
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, NY 10022
Telephone: 212.446.4856
Facsimile: 212.446.4900

Attorneys for Plaintiff Mobileum Inc.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

Mobileum Inc.,

Plaintiff,

v.

Kibott SARL, Olaf Funke and Celine Dellis,

Defendants.

CASE NO. 4:23-cv-1413-HSG

**JOINT STIPULATION AND
ORDER**

Judge: Hon. Haywood S. Gilliam, Jr.
Courtroom 2

JOINT STIPULATION AND ORDER

Plaintiff Mobileum Inc. (“Plaintiff”), and Defendants, Kibott SARL, Olaf Funke and Celine Dellis (“Defendants”) (collectively, the “Parties”), through their undersigned counsel, hereby stipulate and agree, to the following:

WHEREAS, on March 24, 2023, Plaintiff filed the Complaint in the above-captioned action (*see* ECF No. 1);

1 **WHEREAS**, as to service of process: (i) on March 27, 2023, Plaintiff Mobileum properly served
2 Defendant Kibott’s Luxembourg counsel with a copy of the Complaint, Summons, and related material
3 (“Service Materials”); (ii) on March 28, 2023, Plaintiff Mobileum sent the Service Materials via Federal
4 Express to Defendant Kibott, pursuant to the Framework Services Agreement; and (iii) on April 18, 2023,
5 Plaintiff Mobileum properly served all three defendants by either the Hussier de Justice Veronique Reyter
6 and Huissier de Justice Georges Webber (judicial officers in Luxembourg) pursuant to the Hague
7 Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil
8 or Commercial Matters;

9 **WHEREAS**, on May 17, 2023, after Defendants failed to properly appear, plead or otherwise
10 respond to Plaintiff’s Complaint within the time prescribed by the Federal Rules of Civil Procedure and
11 the Local Rules, Plaintiff filed for Entry of Default against the Defendants, which was entered on May 18,
12 2023 (*see* ECF No. 31);

13 **WHEREAS**, on May 19, 2023, Plaintiff received communication from Defendants’ purported
14 undersigned counsel, and on May 19, 2023, Plaintiff requested an extension of time to file response;

15 **WHEREAS**, on June 14, 2023, the Court directed Plaintiff to file by June 28, 2023, a statement
16 notifying the Court whether it intends to file a motion for default judgment; and to make best efforts to
17 contact the parties identified before deciding whether to file a motion for default judgment (*see* ECF
18 No. 33);

19 **WHEREFORE**, the Parties hereby **STIPULATE AND AGREE**, subject to approval by this
20 Court, as follows:

- 21 1. The Entry for Default entered on May 18, 2023, in the above-referenced action, against
22 Defendants, is hereby set aside; Plaintiff does not currently intend to file a motion for default
23 judgment;
- 24 2. Defendants are deemed to have accepted service of the Complaint, and such acceptance
25 constitutes waiver of any defense to any claims based upon deficient service of process;
- 26 3. Defendants are deemed to have consented to personal jurisdiction in the above-referenced
27 action in the above-entitled Court, and such acceptance constitutes waiver of any defense to
28 any claims based upon lack of personal jurisdiction;

4. Defendants have until June 30, 2023, to file responsive pleading to Plaintiff's Complaint.

Dated: June 14, 2023

/s/ Christopher W. Keegan

CHRISTOPHER W. KEEGAN (SB# 232045)

christopher.keegan@kirkland.com

STEPHEN M. SILVA (SB# 335865)

stephen.silva@kirkland.com

KIRKLAND & ELLIS LLP

555 California Street

San Francisco, CA 94104

Telephone: 415.439.1400

Facsimile: 415.439.1500

AARON H. MARKS (*Pro Hac Vice*)

aaron.marks@kirkland.com

AMAL EL BAKHAR (*Pro Hac Vice*)

amal.elbakh@kirkland.com

KIRKLAND & ELLIS LLP

601 Lexington Avenue

New York, NY 10022

Telephone: 212.446.4856

Facsimile: 212.446.4900

Attorneys for Plaintiff Mobileum Inc.

/s/ Joseph A. Lepera

JOSEPH A. LEPERA (SBN 207615)

joseph@leperalaw.com

PATRICK A. HORMILLOSA (SBN

293000)

patrick@leperalaw.com

LEPERA + ASSOCIATES, PC

870 Market Street – Suite 965

San Francisco, California 94102

Telephone: (415) 362-2529

Facsimile: (415) 362-9022

Attorneys for Defendants

Kibott SARL, Olaf Funke and Celine Dellis

ATTESTATION

Pursuant to Civil L.R. 5-1(h)(3), I hereby attest that concurrence in the filing of this document has been obtained from each of the above signatories.

DATE: June 14, 2023

/s/ Christopher W. Keegan
Christopher W. Keegan

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Joint Stipulation And [Proposed] Order was served on the following on June 14, 2023, via email at the email addresses indicated below:

Joseph A. Lepera (SBN 207615)
joseph@leperalaw.com
Patrick A. Hormillosa (SBN 293000)
patrick@leperalaw.com

*Attorneys for Defendants
Kibott SARL, Olaf Funke and Celine Dellis*


DATE: June 14, 2023

/s/ Amal El Bakhar
Amal El Bakhar

ORDER

Based on the stipulation of the Parties, and good cause appearing therefore, **IT IS HEREBY ORDERED** that the Stipulation is approved.

DATED: 6/15/2023


Hon. Haywood S. Gilliam, Jr.
United States District Judge